

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Ronald & Kathy Henderson,
Petitioners-Appellants,

v.

Muscatine County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-70-0038
Parcel No. 1330202020

On April 8, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants, Ronald and Kathy Henderson, requested a hearing and submitted evidence in support of their petition. They were self-represented. The Board of Review designated First Assistant County Attorney Dana E. Christiansen as its legal representative. It also submitted documentary evidence in support of its decision. County Assessor Dale McCrea represented the Board of Review at hearing. Ronald Henderson represented the Appellants at hearing by telephone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Ronald and Kathy Henderson, owners of property located at 5820 63rd Avenue West, Muscatine, Iowa, appeal from the Muscatine County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story dwelling having 1008 total square feet of living area, a full unfinished basement, an attached 480 square-foot garage, and two 1080 square-foot detached garages. The dwelling was built in 1982, and has a 4+00 quality grade. The dwelling is situated on a 1.164 acre lot.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$136,630, representing \$25,410 in land value and \$111,220 in dwelling value.

The Hendersons protested to the Board of Review on the grounds: the assessment is not equitable as compared to similar properties in the taxing jurisdiction under Iowa Code 441.37(1)(a); that there was an error in the assessment under section 441.37(1)(d); and there was a change in the value since the last reassessment under sections 441.37(1) and 441.35. They claimed \$125,130 was the actual value and a fair assessment of the property. The Board of Review granted the protest, in part, reducing the assessment to \$130,130, allocated \$25,410 to land value and \$104,720 to dwelling value.

The Hendersons then filed their appeal with this Board and claimed the ground of equity, over-assessment under section 441.37(1)(b), error, and change in value since last reassessment. The Hendersons claimed the error is one of over-assessment.

The Hendersons submitted one-page property listings for each of twelve homes in Muscatine they felt supported their claims. Ronald Henderson testified that four properties had lower assessed values than their sale prices, however he did not provide complete property record cards showing the date of sale, sale conditions, sale price and assessment in year of sale. He reports that some owners have renovated attached garages into living spaces and added detached garages without significant increases in their assessments. He identified two properties that had reductions in their assessments. Others he felt had less increase in assessments than his property assessment. Without more information, analysis or adjustments these assertions are not relevant to his claim. Henderson compared his home with others having recent improvements, such as roofs, pools, or siding, that in his opinion should have increased their assessments.

Henderson testified they have the original furnace and hot water heater and the roof needs replacement, but they are reluctant to improve the property and risk an increase in assessment. In

Henderson's opinion, the whole neighborhood is over-assessed. He questioned how the current assessment was determined when he only paid \$50,000 for his house to be built. According to the property record card, the house was built in 1982 and he makes no time adjustment for the purchase price.

Henderson testified one of his garages does not have electricity and should be valued lower than garages with electric service. We agree. According to Assessor McCrea, detached garages assume \$1.10 per square foot for electrical on garages under 500 square feet and \$.70 per square foot on garages above 500 square feet. Henderson's garage is 1080 square feet. The replacement cost new less 21% depreciation and 10% obsolescence with the 0.85 map factor applied results in an indicated value of \$10,610, a reduction in the current value by \$455.

The Board of Review submitted eight exhibits in addition to those in the certified record. Assessor Dale McCrea testified on behalf of the Board clarifying information in the Hendersons' exhibits summarized in the following chart:

#	Address	PIN	Sale Date	Sale Price	Assessed Value	Sale Conditions
1	5805 65th Ave W	1330202013				Sale to family member
2	5800 63rd Ave W	1330202006		None		Estate Sale
3	5821 63rd Ave W	1330226008	12/22/2006	None		Normal
4	5812 63rd Ave W	1330202010	8/31/2007	\$123,000	\$130,190	Normal
5	5816 63rd Ave W	1330202012	6/24/1995	\$64,900	\$87,580 ¹	Normal
6	5824 63rd Ave W	1330202019	4/30/2001	\$100,000	\$95,590	Normal
7	5712 65th Ave W	1330201006	9/8/2010	None		Sale to family member
8	5801 65th Ave W	1330202011	6/4/2004	\$88,000	\$96,280	Normal
9	5710 63rd Ave W	1330202004	7/26/2004	\$173,000	\$169,020	
10	5809 63rd Ave W	1330226005	No Sale			New garage, siding, updated
11	Subject	1330202020	No Sale		\$130,130	Includes 2 metal buildings
12	1729 Arbor Oaks	835101021	No Sale		\$247,400	

¹ This is the 1999 assessed value, information for the year of sale was not provided.

McCrea provided assessed values in the year of sale for these properties. He reported the first and second properties identified by the Hendersons were abnormal sales; one was purchased from HUD and then sold to a family member, and the other was an estate sale. After the third property sold in 2006 in a normal transaction, the property was extensively remodeled, a garage was added and the basement finish expanded after it suffered tornado damage in 2008. The 2006 sale price and assessed value reflect the subsequent remodeling. An attached garage on the fourth property was converted to living quarters in 1986 and a detached garage was added in 1988. The fifth property identified sold in 1995 for less than the 1999 assessment listed. This sale is dated and is not a reliable indicator of the value for the January 1, 2010, assessment. The sixth property sold in 2001 for more than the assessed value, but the assessor reports that basement finish was removed in 1997 which reduced the improvement value and no permit for basement finish has been taken since then. The seventh property was sold between family members for no consideration and does not provide any useful data. The eighth property sold in 2004, six years prior to the assessment date at issue, for less than the assessed value. However, it is a manufactured dwelling and a garage was added after the sale. This sale is also too remote in time to provide any relevant comparison. The tenth and twelfth properties listed were not sales and no information was provided to suggest they are appropriate comparisons. The eleventh property listed is the subject property. An exhibit delineating the Muscatine map zones shows the twelfth property is located in a completely different area of the city than the subject property. McCrea testified concerning an exhibit which compares the assessments of sixteen houses in Hendersons' immediate neighborhood. He explained the total value of each property was listed along with the value of the land, dwelling and attached garage, without the value of any detached garages. The exhibit shows these adjusted values range from \$60.66 to \$104.05 per square foot. The subject property is assessed at \$80.22 per square foot which is slightly below the median value. This exhibit also shows the Hendersons' assessment included an additional \$23,860 for the two detached garages.

McCrea testified the land values in the neighborhood were all set using uniform front-foot pricing. All the property record cards, including the Hendersons' card, show a standard \$175 front-foot pricing and a 25% adjustment for economic obsolescence. Two of the properties also have other obsolescence adjustments, one 10% and the other 40%. The land values range from \$20,650 to \$41,450. The Hendersons' land is assessed at \$25,410. We note the Hendersons' land value is at the lower end of the range and is larger than all but one of the neighboring properties. Contrary to Hendersons' claim the whole neighborhood is over-assessed, sales ratio statistics for the sales in their neighborhood do not show patterns of over-assessment.

Reviewing the entire record, we find the preponderance of the evidence does not support the Hendersons' claim of inequitable assessment. However, evidence shows the third garage is over-assessed considering its lack of electricity and should be reduced by \$455. Besides the garage, there is nothing to suggest the subject is over-assessed.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

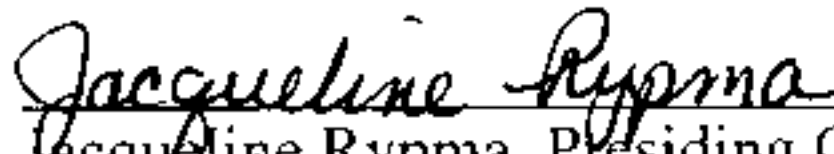
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio of the difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). We find no evidence to support an inequity in the Hendersons' assessment.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Viewing the evidence as a whole, we determine the preponderance of the evidence supports Henderson claim of over-assessment limited to the valuation of the third garage in the January 1, 2010, assessment. Therefore, we modify the property assessment as determined by the Board of Review by a reduction of \$455. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$129,675, representing \$25,410 in land value and \$104,265 in improvement value.

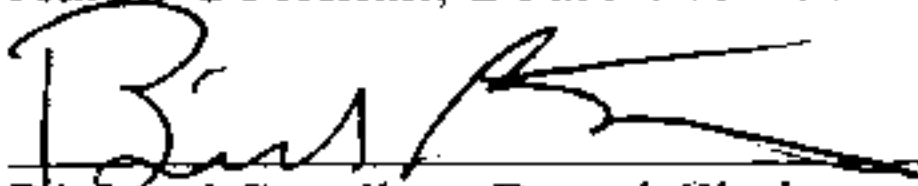
THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Muscatine County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Muscatine County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 8 day of JUL 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-8</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	